

III.C.2. Flow-Through Entities

Introduction

Some tax shelters use flow-through entities to help achieve their desired results. The entities used are Sub S Corporations, Partnerships, TEFRA Partnerships, and Trusts.

Subchapter S-Sub S corporations are small corporations (limited to 75 shareholders) taxed under Subchapter S of the Code, IRC sections 1361-1379. Also, all of Subchapter C (sections 301-385) applies to S corps. unless specifically overridden by Subchapter S.

Sub. S corps. use tax shelters to generate losses for individuals and create another layer of complexity to the transaction, usually in connection with partnerships.

The Technical Advisor for Sub S corporations is Mark Pierce.

Phone number 503-326-3306

E-mail address Mark.F.Pierce@irs.gov

Mail address IRS

ATTN: M/S 0132

1220 SW 3rd

Portland, Oregon 97204

Mark's web site

http://lmsb.irs.gov/hq/pftg/s_corps

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Introduction

Partnerships-Partnerships are taxed under Chapter K of the Code, sections 701-761. Partnerships now make up roughly 40 percent of filings.

Tax shelters use partnerships by abusing the flexibility of partnership law. For example, they allocate income to a non-taxable entity and expenses to a taxable U.S. entity.

The Technical Advisor for Partnerships is Rod Oakes.

Phone number 763-549-1020x326

E-mail address Rodney.E.Oakes@irs.gov

Mail address IRS
6040 Earle Brown Drive
Stop 4213BC
Brooklyn Center, MN. 55430

Rod's web site

http://lmsb.irs.gov/hq/pftg/p_ships

TEFRA-These are partnerships taxed under the Tax Equity and Fiscal Responsibility Act of 1982, IRC sections 6221-6233.

These code sections deal with certain administrative and procedural issues dealing with partnerships. The tax law is the same, and therefore, partnerships under TEFRA would use tax shelters the same way as regular partnerships.

The Technical Advisor for TEFRA is Mark Ransick

Phone number: 512-464-3180

E-mail address Mark.N.Ransick@irs.gov

Mail address 9430 Research Blvd.
LMSB:PFTG:TA
Austin, TX. 78759

Mark's web site

<http://lmsb.irs.gov/hq/pftg/tefra>

Trusts-Trusts will be discussed later on under SB/SE

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**Program
Manager**

The program manager for Flow-Through Entities in LMSB is Cary Russ.

Phone number 847-581-2010
E-mail address Cary [Russ@irs.gov](mailto:Cary.Russ@irs.gov)
Mail address 8125 River Drive
LMSB:PFTG
Morton Grove, IL. 60053

**Trusts
SB/SE**

Trusts are taxed under IRC sections 641-691.

Tax Shelters use Trusts to write off personal expenses or change character and source of income and expenses.

The Technical Advisor for Trusts is Scott Emerson

Phone number 865-545-4450x231
E-mail address Scott [Emerson@irs.gov](mailto:Scott.Emerson@irs.gov)
Mail address 710 Locust Street
Knoxville, TN. 37902

Web Site

There is a Flow-Through Entity and Abusive Tax Shelters web site in SBSE.
The address is:

<http://abusiveshelter.web.irs.gov>

This web site provides a wealth of information on trusts and other passthroughs. If your taxpayer is using trusts that you think may be abusive, take a look at this web site.

Trusts

http://abusiveshelter.web.irs.gov/Research/18_02_plan.htm

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**Program
Manager**

The SBSE Flow-Through Entities & Abusive Tax Shelter Program Manager is John Buchanan. You can contact him as follows:

Phone: 972-308-1531
Fax: 972-308-1500
E-mail: John.R.Buchanan@irs.gov
Address: 4050 Alpha Road
Mail Stop MSRO-4200
Dallas, TX 75244-4203
